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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,308	01/14/2004	Giuseppe Piemontese	71264	3503

23872 7590 06/06/2005

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EXAMINER
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KIM, EUGENE LEE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/757,308	<b>Applicant(s)</b> PIEMONTESE, GIUSEPPE	
	<b>Examiner</b> Eugene L Kim	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,4,6-13 and 15-23 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1, 3, 4, 6-7, 10-13, 15-17, 20-23 is/are rejected.  
 7) ☒ Claim(s) 8,9,18 and 19 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al as discussed in paragraphs 2 and 5 of the last office action.
2. Claims 4, 6-7, 10-13, 15-17, 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al in view of Crossley et al as discussed in paragraph 4 of the last office action. Yamamoto et al show two platforms that are superimposed as the platforms are aligned with openings to prevent the capsules from being dropped from the apertures. Yamamoto et al show the use of compressed air to release a capsule from the upper platform to a lower platform. Yamamoto et al do not show the platforms revolving around a vertical axis. However, Crossley et al teach the concept of circular platforms rotating around a vertical axis to dispense capsules from an upper to lower platform wherein upper platform has aperture 92 and lower platform has aperture 27. The upper platform has a fixed table to allow the capsule to drop from the upper to lower platform as shown in figure 5. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Yamamoto with platforms rotating about a vertical axis as taught by Crossley et al as an alternative means to transport products as known in the art. Regarding the microprocessors, the examiner took official notice that it is well known in the art to use microprocessors to synchronize elements in the previous office action.

Since applicant did not challenge this notion, this is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice. See MPEP 2144.04.

Claims 8, 9, 18, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Applicant's arguments filed 4/27/2005 have been fully considered but they are not persuasive. In response to applicant's arguments regarding two support structures, Yamamoto et al show two support structures as does Crossley et al with a first support structure with apertures 92 and a second support structure with apertures 27 as discussed supra.

Regarding the circular platform design, the secondary reference Crossley et al show circular platform shapes as shown in the figures. The examiner is interpreting "platform" in a broad context and is not interpreting the claim to mean that the platform has to be easily swapped in and out for replacement as applicant contends.

Regarding the supports moving angularly, both references show this feature as both references supports rotate as claimed.

Lastly, regarding the fixed table as claimed, Crossley et al show this limitation in figure 5 as discussed supra. The rejection is based upon the combined teachings of the references and not just on Yamamoto.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene Kim whose telephone number is (571)272-4463. The examiner can normally be reached on Tuesday-Friday 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**EUGENE KIM**  
**PRIMARY EXAMINER**